

REFERENCE TITLE: tax returns; taxpayer verification

State of Arizona
House of Representatives
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2006

HB 2241

Introduced by
Representative Knaperek

AN ACT

AMENDING SECTIONS 42-1105 AND 42-2003, ARIZONA REVISED STATUTES; RELATING TO
TAXPAYER IDENTIFICATION AND VERIFICATION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 42-1105, Arizona Revised Statutes, is amended to
3 read:

4 42-1105. Taxpayer identification, verification and records:
5 retention

6 A. The federal taxpayer identification number, assigned pursuant to
7 section 6109 of the internal revenue code, is the taxpayer identifier for
8 purposes of the taxes administered pursuant to this article. Each person who
9 is required to make a return, statement or other document shall include the
10 identifier in order to secure the person's proper identification. If the
11 return, statement or other document is made, electronically or otherwise, by
12 another person on behalf of the taxpayer, the taxpayer shall furnish the
13 identifier to the other person, and the person shall furnish both the
14 taxpayer's identifier and his own identifier with the return, statement or
15 document. THE DEPARTMENT SHALL VERIFY THE TAXPAYER'S NAME AND IDENTIFIER
16 THROUGH THE STATE VERIFICATION AND EXCHANGE SYSTEM AS ADMINISTERED BY THE
17 SOCIAL SECURITY ADMINISTRATION.

18 B. The department may prescribe by administrative rule alternative
19 methods for signing, subscribing or verifying a return, statement or other
20 document required or authorized to be filed with the department that have the
21 same validity and consequence as the actual signature or written declaration
22 of the taxpayer or other person required to sign, subscribe or verify the
23 return, statement or other document. While the department is adopting a rule
24 prescribing alternative methods for signing, subscribing or verifying a
25 return, statement or other document, the director, by tax ruling, may waive
26 the requirement of a signature for a particular type or class of return,
27 statement or other document required to be filed with the department. For
28 purposes of this subsection, "tax ruling" has the same meaning prescribed in
29 section 42-2052.

30 C. A person who is a return preparer or an electronic return preparer
31 shall furnish a completed copy of the return, statement or other document to
32 the taxpayer no later than the time the return, statement or other document
33 is presented for the taxpayer's signature.

34 D. Except as provided in section 42-3010, every person who is subject
35 to the taxes administered pursuant to this article shall keep and preserve
36 copies of filed tax returns, including any attachments to the tax return, any
37 signature documents used for the tax return, suitable records and other books
38 and accounts necessary to determine the tax for which the person is liable
39 for the period prescribed in section 42-1104. The books, records and
40 accounts shall be open for inspection at any reasonable time by the
41 department or its authorized agent.

42 E. Except as provided in section 42-3010, a return preparer or
43 electronic return preparer shall keep copies of the return, statement or
44 other document for six years for transaction privilege and use tax returns
45 and four years for all other returns, statements and other documents

1 following the date on which the return, statement or other document was due
2 to be filed or was presented to the taxpayer for signature, whichever is
3 later.

4 F. Except as provided in section 42-3010, the department may require
5 by administrative rule electronic return preparers to keep for each prepared
6 return, statement or other document the following documents for six years for
7 transaction privilege and use tax returns and four years for all other
8 returns, statements and other documents following the later of either the
9 date on which the return, statement or other document was due to be filed
10 with the department or was presented to the taxpayer for signature:

11 1. The signature document or tax return form bearing the taxpayer's
12 original signature in a manner prescribed by the department by administrative
13 rule or tax ruling.

14 2. Any attachments to the return, statement or other document required
15 to be submitted to the department if the return, statement or other document
16 had not been electronically transmitted to the department.

17 G. The operator of a swap meet, flea market, fair, carnival, festival,
18 circus or other transient selling event shall maintain a current list of
19 vendors conducting business on the premises as sellers. The list shall
20 include each vendor name, business name and business address. On written
21 notice the department may require an operator to submit a copy of the list at
22 any time to the department.

23 H. For at least the period of time prescribed by section 42-1104, the
24 department shall retain records pursuant to sections 41-1346 through 41-1349
25 and 41-1351.

26 Sec. 2. Section 42-2003, Arizona Revised Statutes, is amended to read:
27 42-2003. Authorized disclosure of confidential information

28 A. Confidential information relating to:

29 1. A taxpayer may be disclosed to the taxpayer, its successor in
30 interest or a designee of the taxpayer who is authorized in writing by the
31 taxpayer. A principal corporate officer of a parent corporation may execute
32 a written authorization for a controlled subsidiary.

33 2. A corporate taxpayer may be disclosed to any principal officer, any
34 person designated by a principal officer or any person designated in a
35 resolution by the corporate board of directors or other similar governing
36 body.

37 3. A partnership may be disclosed to any partner of the partnership.
38 This exception does not include disclosure of confidential information of a
39 particular partner unless otherwise authorized.

40 4. An estate may be disclosed to the personal representative of the
41 estate and to any heir, next of kin or beneficiary under the will of the
42 decedent if the department finds that the heir, next of kin or beneficiary
43 has a material interest which will be affected by the confidential
44 information.

1 5. A trust may be disclosed to the trustee or trustees, jointly or
2 separately, and to the grantor or any beneficiary of the trust if the
3 department finds that the grantor or beneficiary has a material interest
4 which will be affected by the confidential information.

5 6. Any taxpayer may be disclosed if the taxpayer has waived any rights
6 to confidentiality either in writing or on the record in any administrative
7 or judicial proceeding.

8 7. The name and taxpayer identification numbers of persons issued
9 direct payment permits may be publicly disclosed.

10 B. Confidential information may be disclosed to:

11 1. Any employee of the department whose official duties involve tax
12 administration.

13 2. The office of the attorney general solely for its use in
14 preparation for, or in an investigation which may result in, any proceeding
15 involving tax administration before the department or any other agency or
16 board of this state, or before any grand jury or any state or federal court.

17 3. The department of liquor licenses and control for its use in
18 determining whether a spirituous liquor licensee has paid all transaction
19 privilege taxes and affiliated excise taxes incurred as a result of the sale
20 of spirituous liquor at the licensed establishment and imposed on the
21 licensed establishments by this state and its political subdivisions.

22 4. Other state tax officials whose official duties require the
23 disclosure for proper tax administration purposes if the information is
24 sought in connection with an investigation or any other proceeding conducted
25 by the official. Any disclosure is limited to information of a taxpayer who
26 is being investigated or who is a party to a proceeding conducted by the
27 official.

28 5. The following agencies, officials and organizations, if they grant
29 substantially similar privileges to the department for the type of
30 information being sought, pursuant to statute and a written agreement between
31 the department and the foreign country, agency, state, Indian tribe or
32 organization:

33 (a) The United States internal revenue service, alcohol and tobacco
34 tax and trade bureau of the United States treasury, United States bureau of
35 alcohol, tobacco, firearms and explosives of the United States department of
36 justice, United States drug enforcement agency and federal bureau of
37 investigation.

38 (b) A state tax official of another state.

39 (c) An organization of states that operates an information exchange
40 for tax administration purposes.

41 (d) An agency, official or organization of a foreign country with
42 responsibilities that are comparable to those listed in subdivision (a), (b)
43 or (c) of this paragraph.

44 (e) An agency, official or organization of an Indian tribal government
45 with responsibilities comparable to the responsibilities of the agencies,

1 officials or organizations identified in subdivision (a), (b) or (c) of this
2 paragraph.

3 6. The auditor general, in connection with any audit of the department
4 subject to the restrictions in section 42-2002, subsection C.

5 7. Any person to the extent necessary for effective tax administration
6 in connection with:

7 (a) The processing, storage, transmission, destruction and
8 reproduction of the information.

9 (b) The programming, maintenance, repair, testing and procurement of
10 equipment for purposes of tax administration.

11 8. The office of administrative hearings relating to taxes
12 administered by the department pursuant to section 42-1101, but the
13 department shall not disclose any confidential information:

14 (a) Regarding income tax, withholding tax or estate tax.

15 (b) On any tax issue relating to information associated with the
16 reporting of income tax, withholding tax or estate tax.

17 9. The United States treasury inspector general for tax administration
18 for the purpose of reporting a violation of internal revenue code section
19 7213A (26 United States Code section 7213A), unauthorized inspection of
20 returns or return information.

21 10. The financial management service of the United States treasury
22 department for use in the treasury offset program.

23 11. The department of commerce for its use in both:

24 (a) Qualifying motion picture production companies for the tax
25 incentives provided for motion picture production under chapter 5 of this
26 title and sections 43-1075 and 43-1163.

27 (b) Fulfilling its annual reporting responsibility pursuant to section
28 41-1517, subsection ~~J~~ K.

29 C. Confidential information may be disclosed in any state or federal
30 judicial or administrative proceeding pertaining to tax administration if the
31 taxpayer is a party to the proceeding.

32 D. Identity information may be disclosed for purposes of notifying
33 persons entitled to tax refunds if the department is unable to locate the
34 persons after reasonable effort.

35 E. The department, upon the request of any person, shall provide the
36 names and addresses of bingo licensees as defined in section 5-401 or verify
37 whether or not a person has a privilege license and number or withholding
38 license and number.

39 F. A department employee, in connection with the official duties
40 relating to any audit, collection activity or civil or criminal
41 investigation, may disclose return information to the extent that disclosure
42 is necessary to obtain information which is not otherwise reasonably
43 available. These official duties include the correct determination of and
44 liability for tax, the amount to be collected or the enforcement of other
45 state tax revenue laws.

1 G. If an organization is exempt from this state's income tax as
2 provided in section 43-1201 for any taxable year, the name and address of the
3 organization and the application filed by the organization upon which the
4 department made its determination for exemption together with any papers
5 submitted in support of the application and any letter or document issued by
6 the department concerning the application are open to public inspection.

7 H. Confidential information relating to transaction privilege tax, use
8 tax, severance tax, jet fuel excise and use tax and rental occupancy tax may
9 be disclosed to any county, city or town tax official if the information
10 relates to a taxpayer who is or may be taxable by the county, city or town.
11 Any taxpayer information released by the department to the county, city or
12 town:

13 1. May only be used for internal purposes.

14 2. May not be disclosed to the public in any manner that does not
15 comply with confidentiality standards established by the department. The
16 county, city or town shall agree in writing with the department that any
17 release of confidential information that violates the confidentiality
18 standards adopted by the department will result in the immediate suspension
19 of any rights of the county, city or town to receive taxpayer information
20 under this subsection.

21 I. The department may disclose statistical information gathered from
22 confidential information if it does not disclose confidential information
23 attributable to any one taxpayer. In order to comply with the requirements
24 of section 42-5029, subsection A, paragraph 3, the department may disclose to
25 the state treasurer statistical information gathered from confidential
26 information, even if it discloses confidential information attributable to a
27 taxpayer.

28 J. The department may disclose the aggregate amounts of any tax
29 credit, tax deduction or tax exemption enacted after January 1, 1994.
30 Information subject to disclosure under this subsection shall not be
31 disclosed if a taxpayer demonstrates to the department that such information
32 would give an unfair advantage to competitors.

33 K. Except as provided in section 42-2002, subsection B, confidential
34 information, described in section 42-2001, paragraph 2, subdivision (a), item
35 (iii), may be disclosed to law enforcement agencies for law enforcement
36 purposes.

37 L. The department may provide transaction privilege tax license
38 information to property tax officials in a county for the purpose of
39 identification and verification of the tax status of commercial property.

40 M. The department may provide transaction privilege tax, luxury tax,
41 use tax, property tax and severance tax information to the ombudsman-citizens
42 aide pursuant to title 41, chapter 8, article 5.

43 N. Except as provided in section 42-2002, subsection C, a court may
44 order the department to disclose confidential information pertaining to a
45 party to an action. An order shall be made only upon a showing of good cause

1 and that the party seeking the information has made demand upon the taxpayer
2 for the information.

3 O. This section does not prohibit the disclosure by the department of
4 any information or documents submitted to the department by a bingo licensee.
5 Before disclosing the information the department shall obtain the name and
6 address of the person requesting the information.

7 P. If the department is required or permitted to disclose confidential
8 information, it may charge the person or agency requesting the information
9 for the reasonable cost of its services.

10 Q. Except as provided in section 42-2002, subsection C, the department
11 of revenue shall release confidential information as requested by the
12 department of economic security pursuant to section 42-1122 or 46-291.
13 Information disclosed under this subsection is limited to the same type of
14 information that the United States internal revenue service is authorized to
15 disclose under section 6103(l)(6) of the internal revenue code.

16 R. Except as provided in section 42-2002, subsection C, the department
17 of revenue shall release confidential information as requested by the courts
18 and clerks of the court pursuant to section 42-1122.

19 S. To comply with the requirements of section 42-5031, the department
20 may disclose to the state treasurer, to the county stadium district board of
21 directors and to any city or town tax official that is part of the county
22 stadium district confidential information attributable to a taxpayer's
23 business activity conducted in the county stadium district.

24 T. The department shall release confidential information as requested
25 by the attorney general for purposes of determining compliance with and
26 enforcing section 44-7101, the master settlement agreement referred to
27 therein and subsequent agreements to which the state is a party that amend or
28 implement the master settlement agreement. Information disclosed under this
29 subsection is limited to luxury tax information relating to tobacco
30 manufacturers, distributors, wholesalers and retailers and information
31 collected by the department pursuant to section 44-7101(2)(j).

32 U. For proceedings before the department, the office of administrative
33 hearings, the board of tax appeals or any state or federal court involving
34 penalties that were assessed against a return preparer or electronic return
35 preparer pursuant to section 42-1103.02 or 42-1125.01, confidential
36 information may be disclosed only before the judge or administrative law
37 judge adjudicating the proceeding, the parties to the proceeding and the
38 parties' representatives in the proceeding prior to its introduction into
39 evidence in the proceeding. The confidential information may be introduced
40 as evidence in the proceeding only if the taxpayer's name, the names of any
41 dependents listed on the return, all social security numbers, the taxpayer's
42 address, the taxpayer's signature and any attachments containing any of the
43 foregoing information are redacted and if either:

44 1. The treatment of an item reflected on such return is or may be
45 related to the resolution of an issue in the proceeding.

1 2. Such return or return information relates or may relate to a
2 transactional relationship between a person who is a party to the proceeding
3 and the taxpayer which directly affects the resolution of an issue in the
4 proceeding.

5 V. The department may disclose to the attorney general confidential
6 information received under section 44-7111 and requested by the attorney
7 general for purposes of determining compliance with and enforcing section
8 44-7111. The department and attorney general shall share with each other the
9 information received under section 44-7111, and may share the information
10 with other federal, state or local agencies only for the purposes of
11 enforcement of section 44-7101, section 44-7111 or corresponding laws of
12 other states.

13 W. TO COMPLY WITH THE REQUIREMENTS OF SECTION 42-1105, SUBSECTION A,
14 THE DEPARTMENT SHALL DISCLOSE TAXPAYERS' NAMES AND FEDERAL TAXPAYER
15 IDENTIFICATION NUMBERS TO THE SOCIAL SECURITY ADMINISTRATION.